

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14419US01)

In the Application of:

Ronald L. Mahany

Serial No.: 10/057,816

Filed: January 24, 2002

**For: REMOTE RADIO DATA
COMMUNICATION SYSTEM WITH
DATA RATE SWITCHING**

Examiner: Nguyen Thanh Vo

Group Art Unit: 2618

Transmitted via the Office electronic filing system May 21, 2010.

**REQUEST FOR RECONSIDERATION OF
USPTO RECALCULATION OF
PATENT TERM ADJUSTMENT IN VIEW OF WYETH**

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

The applicant respectfully requests reconsideration of the patent term adjustment indicated in the enclosed print-out of the current United States Patent and Trademark Office (USPTO) patent term adjustment determination from PAIR and the *Decision On Request For Recalculation Of Patent Term Adjustment In View Of Wyeth And Notice Of Intent To Issue Certificate Of Correction* (PTOL-549G (04/10)) ("the Decision") mailed April 21, 2010 respecting the present application. This application for patent term adjustment is being filed within the later of one month or 30 days after the mailing date of the Decision.

This request is accompanied by the fee set forth in § 1.18(e) (\$200.00).

This request includes below a statement of the facts involved in sufficient detail to allow the United States Patent and Trademark Office (USPTO) to verify the correct patent term adjustment.

The Applicant's calculated patent term adjustment is 1219 days. The Decision reported a patent term adjustment of 1218 days. Thus, the Applicant is requesting an increase in the patent term adjustment.

The basis under 37 CFR § 1.702 for the adjustment is as follows:

Positive Patent Term Adjustment

Three Year Guarantee

(35 USC § 154(b)(1)(B))

The USPTO calculation of the patent term adjustment under the three-year deadline for issuing a patent after its filing date was 1218 days. The Applicant disagrees with this determination because the patent term adjustment on this ground should instead be 1219 days, minus 0 days consumed by an appeal, for a net adjustment of 1219 days.

Specifically, the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR shows that:

- the actual filing date of the application was January 24, 2002,
- the third anniversary of the actual filing date was January 24, 2005,
- the first request for continued examination of the application under 35 USC 132(b) was filed on March 20, 2008.

Net Patent Term Adjustment

The changes requested by the Applicant to the USPTO patent term adjustment determination in the DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION (PTOL-549G (04/10)) ("the Decision") mailed April 21, 2010, are as follows:

**Three Year Guarantee
(35 USC § 154(b)(1)(B))**

	Patent Term Adjustment (days)
USPTO Calculation in Recalculation Request	1218
Applicant Calculation	1219

Conclusion

The Applicant requests modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the net patent term adjustment proposed by the Applicant is thus 1219 days.

Please charge any fees or credit any overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: May 21, 2010

By: Michael T. Cruz/

Michael T. Cruz

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Mail Date: 04/21/2010

Applicant	:	Ronald L. Mahany	:	DECISION ON REQUEST FOR
Patent Number	:	7606575	:	RECALCULATION OF PATENT
Issue Date	:	10/20/2009	:	TERM ADJUSTMENT IN VIEW
Application No	:	10/057,816	:	OF WYETH AND NOTICE OF INTENT TO
Filed	:	01/24/2002	:	ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1218** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

2/19/2008	Advisory Action (PTOL-303)		
2/14/2008	3 month deadline for OA-5		
1/29/2008	Date Forwarded to Examiner		
1/14/2008	Amendment after Final Rejection		
11/30/2007	Information Disclosure Statement considered		
11/30/2007	Information Disclosure Statement (IDS) Filed		
11/30/2007	Information Disclosure Statement (IDS) Filed		
11/14/2007	Mail Final Rejection (PTOL - 326)		
11/13/2007	Final Rejection		
9/7/2007	Date Forwarded to Examiner		
9/4/2007	Supplemental Response		15
8/23/2007	Date Forwarded to Examiner		
8/21/2007	Information Disclosure Statement considered		
8/21/2007	Reference capture on IDS		
8/21/2007	Information Disclosure Statement (IDS) Filed		
8/21/2007	Information Disclosure Statement (IDS) Filed		
8/20/2007	Response after Non-Final Action (repeated)		
8/20/2007	Response after Non-Final Action		61

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